

15th Annual Conference
National Council for
Public-Private Partnerships
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**“Getting Through the
Procurement Process:
Procurement Basics for Public-
Private Partnerships”**

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Options for Public-Private Partnerships

1. Public Ownership

- Private Operations
- Private Design/Construction
 - Improvements
 - New Facilities
- Public or Private Financing

2. Private Ownership and Provision of Services by Private Company or Utility

3. Lease/Sale Facilities and Provision of Services by Private Company or Utility

Why Consider a Public-Private Partnership?

- Potential Cost Savings
 - Design/Construction of Capital Improvements
 - Operations
- Risk Reduction
- Improved Performance
- Need for Alternative Financing

What is Procurement?

- Setting Objectives
- Selecting a Procurement Strategy
- Defining Service and Key Terms and Conditions for Business Arrangements
- Preparing the Request for Proposals
- Interacting with Prospective Proposers
- Evaluation of Proposals
- Selection and Contract Negotiations

Objectives of Procurement Process

- Attract Competitive Proposals from Qualified Parties
- Obtain Attractive Terms that Meet Procurement Objectives
- Develop Equitable Contract that Fairly Serves Both Parties

Role of Consultants

- Provide guidance and information that allows informed decision making (Consultant often has advantage of experience with similar projects and circumstances and can “steer” client away from pitfalls)
- Provide independent advice, considering both the public and private perspective. This is valuable in setting attainable goals, preparing the RFP, contract negotiations and in dispute resolution.
- Provide assistance in setting strategy, preparing RFP, evaluating responses and negotiating contracts
- Expertise assists communities achieve an even playing field in discussions/ negotiations with proposers.

Procurement Approaches and Strategy

- Request for Qualifications (RFQ)
- Request for Proposals (RFP)
- RFQ/RFP [Two Step]
- Hybrid Approaches
 - Request for Qualifications and Expressions of Interest (RFQEI)
 - Draft RFP (for comment)/Final RFP
 - Expanded RFP - Menu Approach

Request for Qualifications (RFQ)

- Objectives
 - to determine if there are sufficient, interested qualified proposers in the marketplace
 - to choose the best qualified proposer for contract negotiations
 - to “short list” proposers, prior to requesting a cost proposal (two-step procurement)

Request for Qualifications (continued)

- Advantages
 - allows determination that qualified proposers exist
 - provides assurance that the service/terms requested will draw sufficient number of cost competitive proposals
 - if used to short list in two-step procurement, it allows more attention to be focussed on only qualified proposers for subsequent evaluation of technical and cost proposals
 - less costly to prepare and for proposers to respond to than an RFP

Request for Qualifications (continued)

- Disadvantages
 - technical and cost information not provided
 - if used to select qualified proposer for contract negotiations, then there is not the benefit of competitive cost proposals
 - if used as part of two-step procurement, the procurement schedule is prolonged
- Application
 - most useful to test strength of marketplace for “innovative” procurements; e.g., new service or business arrangement not presently offered

Request for Proposals (RFP)

- Objective
 - to seek competitive technical and cost proposals from qualified proposers meeting service needs and terms and conditions of contract
- Advantages
 - typically shorter schedule, one-step procurement process
 - allows for open, cost competition
 - provides qualifications, technical, cost and business information needed to make a complete evaluation of proposals received

Request for Proposals (continued)

- Disadvantages
 - requires greater effort and cost to prepare RFP, as it is necessary to define service requested and key terms and conditions of contract
 - is costly for proposers to prepare a response
 - can be limiting in restricting proposer's flexibility and ideas

Request for Proposals (continued)

- Application
 - Most useful in situations:
 - where marketplace is mature with ample number of qualified proposers
 - where service and key terms and conditions of contract can be well defined; i.e., you “know what you want”
 - where it is most probable that the project will proceed

Hybrid Procurement Approaches

- Request for Qualifications and Expressions of Interest (RFQEI)
 - cross between RFQ and RFP; it provides qualifications, technical approach, key terms and conditions of contract, and cost information (estimates, not guaranteed prices)
 - Application
 - most useful when not certain regarding specific service and terms and conditions of contract, but want more than qualifications information; e.g., technical approach and cost estimates, so that a decision can be made to enter into contract negotiations with the benefit of cost and technical comparisons

Hybrid Procurement Approaches(continued)

or

when seeking to determine if contracting for a particular service is beneficial as compared to other options

- **Draft RFP/Final RFP Process**

- One step less than Final RFP

- Application

most useful when know most all specifics of service and key terms and conditions of contract, but want to check with marketplace to ensure that what is being asked for is “doable”;

useful to solicit marketplace comments to strengthen Final RFP;

also useful to stimulate interest in procurement process

Hybrid Procurement Approaches(continued)

- The “Menu” Approach for an RFP

this is an expanded RFP approach to allow proposers to propose more than one service option; e.g., sale, lease or contract operations

- Application

- Most useful when want formal technical and cost proposals, but are not certain which service option is most advantageous

Choosing the Best Approach to Meet Your Needs

- Inventory Available Information
- Know Where You Are Regarding Definition of Services, Key Terms and Conditions of Contract
- Set Objectives
 - to test marketplace for qualified proposers
 - to establish a qualified proposer list
 - to seek technical and cost information without a formal proposal effort
 - to seek technical and cost proposals

Be Cognizant of State Procurement Law

Can Limit Choice of Type of Procurement or Specify How Procurement is to be done.

(For example, in New York and Massachusetts, cannot do design/build or design/build/operate delivery for publicly owned projects (need special State Legislation to do so).)

Typical Procurement Schedule

A typical procurement schedule for an RFP is as follows:

- Set procurement objectives and strategy	1-2 months
- Prepare/release RFP	2-3 months
- Pre-bid conference, response to questions on RFP, issue addenda to RFP	concurrent with preparation of proposals
- Respondents prepare proposals	3 months
- Proposal review and selection of proposer for contract negotiations	2 months
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SUBTOTAL:	8-10 months
- Contract Negotiations	1-6 months
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TOTAL:	9-16 months

Procurement Incentives

- Start with attitude of “trust” necessary for a successful partnership
- Adopt an honest/sincere approach conveying that contract will be let as a result of the procurement process
- Demonstrate that there is a fair and even playing field for all proposers; i.e., no favorites, no exclusionary evaluation criteria biased toward a particular vendor

Procurement Incentives (continued)

- Provide setting for an attractive business relationship for both buyer and seller
 - long-term contract (15 years plus)
 - realistic terms and conditions for contract; e.g., well defined work scope and division of responsibility, attainable performance guarantees, equitable risk sharing, realistic conditions for defaults and remedies, and fair termination clauses
 - financial terms that keep both buyer and seller financially whole

Content of RFP

- Introduction-background/objectives
- Facility/asset description (existing/proposed)
- Scope of supply/service, including performance specifications/guarantees
- Draft contract or key terms and conditions of such
- Procurement process and schedule

Content of RFP

(continued)

- Instructions to respondents: content of proposals to be submitted (technical and cost proposals)
- Rights of party requesting proposals
- Evaluation process/evaluation criteria
- Appendices (e.g., key information describing existing facilities or plans for new facilities)

Communicating with Prospective Proposers

- Announcing/Advertising
- Pre-bid Conference and Facility
Inspections
- Addenda to the RFQ/RFP

Announcing / Advertising

- Why advertise?
 - Remember, you are selling as well as buying!
 - Competition means benefits to the community
 - Take advantage of what the private sector offers
- Where advertise?
 - Locally and nationally
- What's in the Ad?
 - The salient facts only
- Be careful about notifying only selected vendors in advance of the Advertising

Pre-Bid Conference and Facility Inspections

- It's Purpose?
 - an information exchange
- Why is it beneficial?
 - Knowledge means better quality proposals
- When should it be conducted?
 - Early in process

Addenda to the RFP

- Addenda should be issued for the following
 - Responses to questions, written or oral
 - Changes in procurement process or schedule
 - Changes in scope or submittal requirements
 - Notes from Pre-Bid Meeting

Proposal Evaluation/Selection

- Establish Selection Committee
- Conduct Non-Cost Review
- Conduct Cost Review
- Value Analysis
- Contact References
- Interview
- Visit Referenced Facilities
- Selection
- Contract Negotiations and Execution

Documenting the Selection Process

- Importance of Documentation
 - to clearly “spell out” basis for selection
 - to respond to inquiries
 - to support requests from interested Government agencies
 - to provide documentation to protect against challenges
- Document Evaluation Process, Evaluation Criteria, Ranking of Proposals and Reasons for Rankings
- Hold debriefing for those not selected, if requested